

Message Text

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ACTION EUR-12

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FM USMISSION USBERLIN

TO AMEMBASSY BONN

INFO SECSTATE WASHDC 0395

AMEMBASSY LONDON

AMEMBASSY MOSCOW

AMEMBASSY PARIS

USMISSION NATO

C O N F I D E N T I A L USBERLIN 0136

E.O. 11652: GDS

TAGS: PGOV, WB, GE, GW

SUBJECT: PAST AND FUTURE SOVIET PROTESTS--CONSULAR
LAW AND EC CENTER

REFS: A) BONN 463; B) STATE 15374

1. BRITISH POLAD DELIVERED ALLIED RESPONSE TO SOVIET
PROTEST ON FRG CONSULAR LAW JANUARY 15. SOVIET EMBASSY
COUNSELLOR RODIN ASKED FOR OPPORTUNITY TO STUDY REPLY
AND TO MEET AGAIN WITH BRITISH POLAD JANUARY 22.
FOLLOWING IS VERBATIM REPORT OF SECOND MEETING WHICH
BRITISH POLAD HAS PROVIDED US: BEGIN TEXT: I SAW
BOTH RODIN AND BURDAKIN THIS MORNING. THEY BOTH FIRST
EXPRESSED IGNORANCE OF THE WESTERN COMMUNICATION ON
QUESTIONS OF NATIONALITY MADE TO THE SOVIET UNION ON
9 AUGUST 1974. (COMMEFT: THE ALLIED RESPONSE TO THE
SOVIET PROTEST ON ADOPTION IN BERLIN OF AN AMENDMENT TO
THE 1913 NATIONALITY LAW. END COMMENT.) IN LONG RATHER TEDIOUS
DISCUSSION WE REAFFIRMED THAT THE ALLIED AND SOVIET
POSITIONS, WITH REGARD TO PERMANENT RESIDENTS OF BERLIN,
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WERE DIFFERENT. RODIN

AND BURDAKIN TRIED TO SAY THAT THEIR LAWYERS (THESE APPEARED TO BE IN MOSCOW AND THEY ADMITTED TO NONE IN THE SOVIET EMBASSY) CONSIDERED THAT THE CONSULAR LAW

AFFECTED NATIONALITY. THEY STRESSED THAT THIS WAS, IN THEIR VIEW, A MATTER OF STATUS TOO. THEY SAID THAT THEY HAD SEEN NO INDICATION OF ANY ALLIED RESERVATIONS ABOUT THIS LAW. I POINTED OUT THAT THE WESTERN ALLIES, WHO WERE RESPONSIBLE FOR QUESTIONS OF STATUS AND SECURITY IN WEST BERLIN, BELIEVED THAT THE CONSULAR LAW HAD NO EFFECT ON STATUS OR NATIONALITY. I ALSO SAID THAT AS FAR AS I WAS AWARE THE LAW HAD NOT YET COME INTO EFFECT. BURDAKIN, WITHOUT PRESSING, SAID THAT IT WOULD BE INTERESTING FOR ALLIED AND SOVIET LEGAL ADVISERS TO DISCUSS MATTERS OF STATUS AND ALSO FOR THE RUSSIANS TO HAVE COPIES OF OUR BK/LS. NATURALLY I REJECTED THESE TWO SUGGESTIONS. WHEN RODIN AND BURDAKIN COMPLAINED THAT THE WEST GERMANS, INCLUDING THE REPRESENTATION IN EAST BERLIN, FAILED TO USE QA LANGUAGE ABOUT WEST BERLINERS, I POINTED OUT THAT WE DISAGREED WITH LANGUAGE USED BY THE EAST GERMANS OF WHICH THE RUSSIANS APPROVED, E.G. HAUPTSTADT DER DDR, IN THE SAME WAY AS THE RUSSIANS MIGHT DISAGREE WITH WEST GERMAN LANGUAGE TO WHICH WE HAD NO OBJECTION. IN THIS CONNECTION, WHEN QUESTIONED, I POINTED OUT THAT WE HAD NO OBJECTION TO THE TERM "LAND BERLIN" (OUR COMMUNICATION TO THE SOVIET FOREIGN MINISTRY OF 22 FEBRUARY 1973) AS LONG AS WEST BERLIN WAS NOT REGARDED AS A CONSTITUENT PART OF THE FRG. DURING A REPETITIVE CONVERSATION, THE QUESTION OF CONSULAR REPRESENTATION OF WEST BERLINERS BY THE FRG BEING LIMITED BY BILATERAL CONSULAR AGREEMENTS DID NOT (LUCKILY) COME UP. END TEXT

2. COMMENT: HOPEFULLY THIS EXCHANGE EXHAUSTS CONSULAR LAW QUESTION FOR TIME BEING. IT IS POSSIBLE, HOWEVER, AMBASSADOR YEFREMOV WILL REFER TO IT AT HIS LUNCHEON FOR AMBASSADOR HILLENBRAND JANUARY 28. SHOULD YEFREMOV REPEAT THEME THAT ANYTHING TO DO WITH NATIONALITY INEVITABLY EFFECTS STATUS OF BERLIN AND REQUIRES ALLIED INTERVENTION, AMBASSADOR MAY WISH TO NOTE THAT IN CONFIDENTIAL

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ARTICLE 4 OF MAY 1955 DECLARATION ON BERLIN ALLIED KOMMANDATURA SPECIFICALLY AUTHORIZED BERLIN TO ADOPT SAME LEGISLATION RESPECTING NATIONALITY AS FEDERAL REPUBLIC. THIS DECLARATION, WHICH IS ONE OF BASIC OCCUPATION DOCUMENTS, WAS ESSENTIAL PART OF SITUATION OF WHICH QUADRIPARTITE AGREEMENT TOOK COGNIZANCE. END COMMENT.

3. BRITISH POLAD HAS ADVISED US THAT RODIN HAS ASKED HIM FOR APPOINTMENT FOR JANUARY 27. WHILE SUBJECT NOT DISCLOSED IN ADVANCE, BEST GUESS IS THAT SOVIETS WILL RAISE EC DECISION ON LOCATING VOCATIONAL CENTER IN BERLIN. GEORGE

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